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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,674	05/15/2001	Kazuhiko Nojima	1900/00025	1148
7590	09/13/2004		EXAMINER	
Connolly Bove Lodge & Hutz LLP Suite 800 1990 M Street, N.W. Washington, DC 20036-3425			LI, SHI K	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/854,674	NOJIMA ET AL.
	Examiner	Art Unit
	Shi K. Li	2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 June 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. The indicated allowability of claims 1 and 4 is withdrawn in view of the newly discovered reference(s) to Heismann et al. Rejections based on the newly cited reference(s) follow.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over admission (admitted prior art) in view of Heismann et al. (F. Heismann et al., "Signal Tracking and Performance Monitoring in Multi-Wavelength Optical Networks", 22nd European Conference on Optical Communication – ECOC '96, 1996).

Regarding claims 1, 3 and 4, FIG. 3 of instant application discloses a prior art multi-channel video optical transmission system comprising optical transmitter 12, optical fiber 14 and optical receiver 13. The optical transmitter comprises pilot signal generating means 11, frequency modulator 2 and electrical-optical converting means 3. The optical receiver comprises optical-electrical converting means 4, amplifier 5 and frequency demodulating means 6. The difference between admission and the claimed invention is that admission does not teach a frequency modulation function in the pilot signal generating means. Heismann et al. teaches in FIG. 3 a transmitter with a pilot tone generating unit having FSK modulation function. One of ordinary skill in the art would have been motivated to combine the teaching of Heismann et al.

with the video optical transmission system of admission because additional supervisory information can be carried by the FSK modulated pilot tone. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a FSK modulation function in the pilot signal generating means, as taught by Heismann et al., in the video optical transmission system of admission because additional supervisory information can be carried by the FSK modulated pilot tone.

Regarding claims 2, 5 and 6, FIG. 3 of instant application discloses a prior art multi-channel video optical transmission system comprising optical transmitter 12, optical fiber 14 and optical receiver 13. The optical transmitter comprises pilot signal generating means 11, and electrical-optical converting means 3. The optical receiver comprises optical-electrical converting means 4 and amplifier 5. The difference between admission and the claimed invention is that admission does not teach a frequency modulation function in the pilot signal generating means. Heismann et al. teaches in FIG. 3 a transmitter with a pilot tone generating unit having FSK modulation function. One of ordinary skill in the art would have been motivated to combine the teaching of Heismann et al. with the video optical transmission system of admission because additional supervisory information can be carried by the FSK modulated pilot tone. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a FSK modulation function in the pilot signal generating means, as taught by Heismann et al., in the video optical transmission system of admission because additional supervisory information can be carried by the FSK modulated pilot tone.

*Response to Arguments*

4. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shi K. Li whose telephone number is 571 272-3031. The examiner can normally be reached on Monday-Friday (8:30 a.m. - 5:00 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

skl



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